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UNITED NATIONS CONFERENCE ON THE LAW OF TREATIES BETWEEN STATES AND INTERNATIONAL ORGANIZATIONS OR BETWEEN INTERNATIONAL ORGANIZATIONS

Vienna, 18 February - 21 March 1986

REPORT OF THE COMMITTEE OF THE WHOLE

Rapporteur: Mrs. Kuljit Thakore (India)

[See document A/CONF.129/C.1/L.74 and Add.1, Add.1/Corr.1 (Chinese, French and Russian only), Add.2 to 5, Add.6 and Corr.1 and Add.7 to 9.]

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UNITED NATIONS CONFERENCE ON THE LAW OF TREATIES BETWEEN STATES AND INTERNATIONAL ORGANIZATIONS OR BETWEEN INTERNATIONAL ORGANIZATIONS

Vienna, 18 February - 21 March 1986

FINAL ACT OF THE UNITED NATIONS CONFERENCE ON THE LAW OF TREATIES BETWEEN STATES AND INTERNATIONAL ORGANIZATIONS OR BETWEEN INTERNATIONAL ORGANIZATIONS

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1. The General Assembly of the United Nations, by resolution 37/112 of 16 December 1982, decided "that an international convention shall be concluded" on the basis of the draft articles on the law of treaties between States and international organizations or between international organizations adopted by the International Law Commission at its thirty-fourth session. 1/

2. The General Assembly, by resolution 38/139 of 19 December 1983, decided "that the appropriate forum for the final consideration of the draft articles ... shall be a conference of plenipotentiaries".

3. The General Assembly, by resolution 39/86 of 13 December 1984, noting with appreciation the invitation extended by the Government of Austria to hold the Conference at Vienna, decided "that the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizatons shall be held at Vienna from 18 February to 21 March 1986".

4. The United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations met at the Neue Hofburg in Vienna from 18 February to 21 March 1986.

5. The General Assembly, by resolution 39/86 of 13 December 1984, requested the Secretary-General to invite all States to participate in the Conference. The delegations of ninety-seven States participated in the Conference, as follows: Albania, Algeria, Angola, Argentina, Australia, Austria, Bahrain, Bangladesh, Barbados, Belgium, Brazil, Bulgaria, Burkina Faso, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Cape Verde, Chile, China, Colombia, Congo, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Democratic People's Republic of Korea, Denmark, Ecuador, Egypt, Finland, France, Gabon, German Democratic Republic, Germany, Federal Republic of, Greece, Guatemala, Holy See, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Japan, Jordan, Kenya, Kuwait, Lebanon, Lesotho, Liechtenstein, Luxembourg, Madagascar, Malaysia, Malta, Mexico, Morocco, Mozambique, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Qatar,

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1/ Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 10.

Republic of Korea, Romania, Saudi Arabia, Senegal, Spain, Sudan, Sweden, Switzerland, Thailand, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia and Zimbabwe.

6. Also pursuant to General Assembly resolution 39/86 of 13 December 1984, the Secretary-General invited Namibia, represented by the United Nations Council for Namibia, to participate in the Conference in accordance with paragraph 6 of General Assembly resolution 37/233 C of 20 December 1982. Namibia, represented by the United Nations Council for Namibia, participated in the Conference.

7. By resolution 39/86 of 13 December 1984, the General Assembly also requested the Secretary-General to invite representatives of organizations that have received a standing invitation from the General Assembly to participate in the sessions and the work of all international conferences convened under its auspices in the capacity of observers to participate in the Conference in that capacity, in accordance with General Assembly resolutions 3237 (XXIX) of 22 November 1974 and 31/152 of 20 December 1976. The following organization, having received a standing invitation from the General Assembly to participate in the sessions and the work of all international conferences convened under its auspices, was represented at the Conference by an observer: Palestine Liberation Organization.

8. Pursuant to General Assembly resolution 39/86 of 13 December 1984, the Secretary-General invited to the Conference representatives of the national liberation movements recognized in its region by the Organization of African Unity to participate as observers, in accordance with General Assembly resolution 3280 (XXIX) of 10 December 1974. The following national liberation movements were represented at the Conference: African National Congress of South Africa and Pan Africanist Congress of Azania.

9. The General Assembly, by resolution 39/86 of 13 December 1984, requested the Secretary-General to invite the representatives of international intergovernmental organizations that have traditionally been invited to participate as observers at legal codification conferences convened under the auspices of the United Nations to participate in the Conference in a capacity which was later set out in rule 60 of the rules of procedure of the Conference. By resolution 40/76 of 11 December 1985,

the General Assembly decided that the United Nations should participate in the Conference in that same capacity. The following international intergovernmental organizations were represented at the Conference: Asian-African Legal Consultative Committee, Council of Europe, Council for Mutual Economic Assistance, European Economic Community, Food and Agriculture Organization of the United Nations, International Atomic Energy Agency, International Civil Aviation Organization, International Fund for Agricultural Development, International Labour Organisation, International Maritime Organization, International Monetary Fund, International Telecommunication Union, League of Arab States, Organization of American States, United Nations, United Nations Educational, Scientific and Cultural Organization, United Nations Industrial Development Organization, World Bank and World Health Organization.

10. The Conference elected Mr. Karl Zemanek (Austria) as President.

11. The Conference elected as Vice-Presidents the representatives of the following States: Bulgaria, Chile, Côte d'Ivoire, France, German Democratic Republic, Greece, Guatemala, India, Japan, Kuwait, Lebanon, Netherlands, Peru, Poland, Senegal, Sudan, Switzerland, Tunisia, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay and Zimbabwe.

12. The following committees were set up by the Conference:

General Committee

Chairman: The President of the Conference

Members: The President and Vice-Presidents of the Conference, the Chairman of the Committee of the Whole and the Chairman of the Drafting Committee

Committee of the Whole

Chairman: Mr. Mohamed El-Taher Shash (Egypt)

Vice-Chairmen: Mr. Geraldo Eulalio do Nascimento e Silva (Brazil)
Mr. Zdenek Pisk (Czechoslovakia)

Rapporteur: Mrs. Kuljit Thakore (India)

Drafting Committee

Chairman: Mr. Awn Shawkat Al-Khasawneh (Jordan)

Members: The Chairman of the Drafting Committee and the representatives of Algeria, Argentina, China, France, Italy, Japan, Morocco, Nigeria, Romania, Spain, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America and Venezuela.

The Rapporteur of the Committee of the Whole participated ex officio in the work of the Drafting Committee in accordance with rule 48 of the rules of procedure of the Conference.

Credentials Committee

Chairman: Mr. Jean-Paul Hubert (Canada)

Members: The representatives of Brazil, Canada, China, Ecuador, Gabon, Thailand, Union of Soviet Socialist Republics, United States of America and Zambia.

13. Mr. Paul Reuter, Special Rapporteur of the International Law Commission on the question of treaties concluded between States and international organizations or between two or more international organizations, served as Expert Consultant, pursuant to General Assembly resolution 39/86 of 13 December 1984.

14. The Secretary-General of the United Nations was represented by Mr. Carl-August Fleischhauer, Under-Secretary-General, the Legal Counsel. Mr. Georgiy F. Kalinkin, Director of the Codification Division of the Office of Legal Affairs of the United Nations, was appointed by the Secretary-General as Executive Secretary. The Secretariat was further composed as follows: Deputy Executive Secretary and Secretary of the Credentials Committee: Mr. John de Saram; Secretary of the Committee of the Whole: Miss Jacqueline Dauchy; Secretary of the Drafting Committee: Mr. Larry D. Johnson; and Assistant Secretaries of the Conference: Mr. Igor Fominov, Mr. Ricardo Gosalbo-Bono and Mr. Mpazi Sinjela.

15. The General Assembly, by its resolution 39/86 of 13 December 1984, referred to the Conference as the basic proposal for its consideration the draft articles on

the law of treaties between States and international organizations or between international organizations adopted by the International Law Commission at its thirty-fourth session.

16. The Conference had before it written comments of Governments and principal international organizations on the final draft articles on the law of treaties between States and international organizations or between international organizations submitted pursuant to General Assembly resolutions 37/112 of 16 December 1982 and 38/139 of 19 December 1983, as well as comments made orally on the draft articles in the Sixth Committee of the General Assembly at the General Assembly's thirty-seventh, thirty-eighth, t rty-ninth and fortieth sessions. The comments were contained in an ana ytical compilation prepared by the Secretariat of the United Nations (A/CONF.129/5 and Add.1). In addition, the Conference had before it other relevant documentation prepared by the Secretariat of the United Nations.

17. The Conference referred to the Committee of the Whole those draft articles on the law of treaties between States and international organizations or between international organizations adopted by the International Law Commission which required substantive consideration and also assigned to the Committee of the Whole the preparation of the preamble and of the final provisions of the Convention. It referred all other draft articles of the basic proposal directly to the Drafting Committee, which was furthermore responsible for considering the draft articles referred to it by the Committee of the Whole and for co-ordinating and reviewing the drafting of all the texts adopted, as well as for the preparation of the Final Act of the Conference.

18. On the basis of the deliberations recorded in the records of the Conference (A/CONF.129/SR.1 to SR.8) and of the Committee of the Whole (A/CONF.129/C.1/SR.1 to SR.30) and the reports of the Committee of the Whole and the Drafting Committee (A/CONF.129/13 and A/CONF.129/11 and Add.1 to 3), the Conference drew up the following Convention:

19. The foregoing Convention, which is subject to ratification or act of formal confirmation, was adopted by the Conference on 20 March 1986 and opened for signature on 21 March 1986, in accordance with its provisions, until 31 December 1986 at the Federal Ministry for Foreign Affairs of the Republic of Austria and, subsequently, until 30 June 1987, at United Nations Headquarters in New York. The same instrument was also opened for accession in accordance with its provisions.

20. After 31 December 1986, the closing date for signature at the Federal Ministry for Foreign Affairs of the Republic of Austria, the Convention will be deposited with the Secretary-General of the United Nations.

21. The Conference also adopted the following resolutions, which are annexed to this Final Act:

Tribute to the Expert Consultant

Tribute to the International Law Commission

Tribute to the People and to the Federal Government of Austria

Tribute to the President of the Conference, to the Chairman of the Committee of the Whole and to the Chairman of the Drafting Committee

Resolution relating to the Annex to the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations

IN WITNESS WHEREOF the representatives have signed this Final Act.

DONE at Vienna this twenty-first day of March, one thousand nine hundred and eighty-six in a single copy in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic. By decision of the Conference, the original of this Final Act shall be deposited in the archives of the Federal Ministry for Foreign Affairs of the Republic of Austria.

Annex

Resolutions adopted by the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations

Tribute to the Expert Consultant

The United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations,

Having adopted the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations on the basis of the draft articles prepared by the International Law Commission.

Resolves to express to Professor Paul Reuter, Special Rapporteur of the International Law Commission and Expert Consultant to the Conference, its deep appreciation of the invaluable contribution he has made to the codification and progressive development of the rules of international law on the law of treaties between States and international organizations or between international organizations.

Tribute to the International Law Commission

The United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations,

Having adopted the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations on the basis of the draft articles prepared by the International Law Commission,

Resolves to express its deep gratitude to the International Law Commission for its outstanding contribution to the codification and progressive development of the law of treaties between States and international organizations or between international organizations.

Tribute to the People and to the Federal Government of Austria

The United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations,

Having adopted the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations,

Expresses its deep appreciation and gratitude to the People and the Federal Government of Austria for having made possible the holding of the Conference in Vienna and for their continued and most generous hospitality which contributed greatly to the successful completion of the work of the Conference.

Tribute to the President of the Conference,
to the Chairman of the Committee of the Whole
and to the Chairman of the Drafting Committee

The United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations,

Having adopted the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations,

Expresses its appreciation and thanks to Mr. Karl Zemanek, President of the Conference, Mr. Mohamed El-Taher Shash, Chairman of the Committee of the Whole and Mr. Awn Shawkat Al-Khasawneh, Chairman of the Drafting Committee, who, through their great knowledge, successful efforts and wisdom in steering the work of the Conference, contributed greatly to the fruitful work which made the Conference successful.

Resolution relating to the Annex to the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations

The United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations,

Considering that, under the terms of paragraphs 9 and 14 of the Annex to the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations, the expenses of any arbitral tribunal and conciliation commission that may be set up under article 66 of the Convention shall be borne by the United Nations,

Requests the General Assembly of the United Nations to take note of and approve the provisions of paragraphs 9 and 14 of this Annex.